

**BRUCE A. TASSAN**

ATTORNEY AT LAW

4143 NORTH 27<sup>TH</sup> STREET  
ARLINGTON, VIRGINIA 22207-5211

WOW-1KO  
7/15

TTAB

TEL (703) 522-5305

FAX (703) 783-0778

(703) 522-5306

TM@TASSAN.COM

WWW.TASSAN.COM

October 4, 2002

J. David Sams, Esq.  
Trademark Trial and Appeal Board  
U.S. Patent and Trademark Office  
2900 Crystal Drive  
Arlington, Virginia 22202-3513

10-07-2002  
U.S. Patent & TMO/TM Mail Rcpt Dt. #10

TRADEMARK TRIAL AND  
APPEAL BOARD  
03 OCT 15 PM 9:30

Re: *RKO Pictures, Inc. v. RKO Century Warner Theatres, Inc.*  
Opposition No. 123,805  
RKO CENTURY WARNER THEATRES

Dear Mr. Sams:

On August 22, 2001, the above opposition proceeding was instituted. Applicant questioned the institution of the proceeding since opposer and applicant were both identified in the original application for registration as concurrent users.

In October 2001, the Trademark Trial and Appeal Board reported it had lost the application file history for Serial No. 76/386,638 for the mark RKO CENTURY WARNER THEATRES. Since it did not turn up within a month, on November 19, 2001, Applicant provided the Board with a substitute copy of the application file history.

Failing to receive any further communications from the Board, the undersigned called Interlocutory Examiner Cheryl Goodman in May 2002. In that telephone conference, Ms. Goodman reported that she had the substitute/replaced application file history, but the Board had now lost the opposition proceeding file. It is now October 4, 2002 and I have heard nothing from the Board. To my knowledge, neither party has been requested to provide copies of the opposition proceeding file history to reconstitute the file.

The proceeding is currently suspended pending the disposition of a motion to dismiss the opposition because opposer and applicant are identified in the original application for registration as concurrent users. Obviously, the motion cannot be acted upon until the proceeding file is found or reconstituted.

Sincerely,



Bruce A. Tassan

Enclosure  
BAT/mvh

CP

**CERTIFICATE OF SERVICE**

I certify that the foregoing letter to J. David Sams was mailed, first-class, postage prepaid, this 4th day of October 2002, to:

Jane Shay Wald, Esq.  
Irell & Manella  
1800 Avenue of the Stars  
Suite 900  
Los Angeles, California 90067

  
Maria v. Hardison